

RESOLUTION NO. 38-86

NIGHT HAWK AND BLACK PANTHER COUNTY ROAD IMPROVEMENT DISTRICT

Resolution of the Board of Directors of Night Hawk and Black Panther County Road Improvement District of Navajo County, Arizona, approving the plans, specifications, and estimates, declaring its Intention to pave the roads; all as shown on the plans; designating such improvement as Night Hawk and Black Panther County Road Improvement District; determining that improvement bonds will be issued to finance the costs and expenses thereof and declaring the work or improvement to be of more than local or ordinary public benefit and that the costs of said work or improvement will be assessed upon Night Hawk and Black Panther County Road Improvement District; and providing that the proposed work or improvement will be performed under the provisions of 48-901 through 48-965 inclusive, Arizona Revised Statutes, and all amendments thereto.

WHEREAS, a Petition requesting that the roads be paved within Night Hawk and Black Panther County Road Improvement District has been filed pursuant to Arizona Revised Statutes Section 48-901 et seq; and

WHEREAS, pursuant to Arizona Revised Statutes Section 48-913, the Navajo County Engineer has been appointed as the District Engineer to perform all engineering and surveying tasks in order to accomplish the proposed improvement; and

WHEREAS, pursuant to Arizona Revised Statutes Section 48-914, the Engineer has filed with the Clerk plans, specifications, and estimates of the costs and expenses of the proposed improvement project; and

WHEREAS, the Board has examined the plans, specifications, and estimates;

NOW, THEREFORE IT IS RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

Section 1 Definitions. In this Resolution, the following terms shall have the following meanings:

"Clerk" shall mean the Clerk of the Board of Supervisors of Navajo County, Arizona, ex officio Clerk of the Board of Directors of the Night Hawk and Black Panther County Road Improvement District.

"County" shall mean Navajo County, Arizona.

"District" shall mean all lots, parcels and tracts of land lying within the exterior boundaries of the entire composite and consolidated territory as described in the petition for formation of the Night Hawk and Black Panther County Road Improvement District, a copy of said description being attached hereto as Exhibit A. For a more particular description, reference is hereby made to the District Map and Description, which map is on file with the Superintendent of Streets, the Clerk, the District Engineer, and attached hereto as Exhibit B.

"Plans and Specifications" shall mean the plans and the specifications and contract documents for the Night Hawk and Black Panther County Road Improvement District

filed with the Clerk prior to the adoption of this Resolution.

"District Engineer" shall mean the Navajo County Engineer.

"District Map" shall mean the map showing the District in the form attached to this Resolution as Exhibit B.

"Estimate" shall mean the estimate of costs and expenses of Night Hawk and Black Panther County Road Improvement District filed with the Clerk prior to adoption of this Resolution, showing the estimated cost of the proposed work to be One Hundred Seventy-Nine Thousand Four Hundred Dollars (\$179,400.00)

"Governing Body" or "Board" shall mean the Board of Directors of this Night Hawk and Black Panther County Road Improvement District.

"Incidental Expenses" shall mean compensation paid to the District Engineer, costs of printing, advertising, posting, the amount paid the District Engineer to take charge and superintend the work of constructing the improvements, the expenses of making the assessment, appraiser's fees, all legal and financial fees, expenses and costs incurred in drafting the proceedings and the sale and registration of bonds and all interest to be paid on the bonds for the period of construction and six months beyond.

"Superintendent of Streets" shall mean Jim Bruce, an employee of the Navajo County, Arizona, and any successor to such person.

"Work" shall mean the grading and paving of roads, all as shown on the Plans and Specifications.

Section 2 Approval of Plans, Specifications, and Estimates. The Board of Directors of the Night Hawk and Black Panther County Road Improvement District hereby preliminarily adopts and approves the plans, specifications, and estimates for the Night Hawk and Black Panther County Road Improvement District subject to such protests and modifications as may be made in accordance with the law and such modifications as may be subsequently made by this Board of Directors for the Night Hawk and Black Panther County Road Improvement District, a copy of said estimate being attached hereto as Exhibit C and incorporated herein by reference.

Section 3 Declaration of Intention to Order Improvements. The public interest and convenience require and it is the intention of this Board to order the Work to be performed. All of said work and improvements are to be constructed at the places and in the particular locations, of the forms, sizes, dimensions and materials and at the lines, grades and elevations as shown and delineated on the Plans and Specifications therefore, prepared by the District Engineer and filed with the Clerk, and preliminarily adopted and approved. No assessment for any lot shall exceed its proportion of the Estimate. For purposes of this Resolution and of all resolutions and notices pertaining to this Resolution the improvement as herein described is hereby designated Night Hawk and Black Panther County Road Improvement District.

Section 4 Determination of Need. In the opinion of the Governing Body, the Work is of more than local or ordinary public benefit, and the Governing Body hereby orders that all amounts due or to become due with respect to the Work shall be chargeable upon the respective lots, pieces and parcels of land within the Night Hawk and Black Panther County Road Improvement District subject to assessment, in accordance with the benefits to be received by each such lot or parcel.

Section 5 Exclusion of Certain Property. There is exempted from the assessment all publicly owned streets and lands, and they shall be omitted from the assessment, and the costs of the proposed improvements shall be assessed on the lots and parcels of land subject to assessment lying within the Night Hawk and Black Panther County Road Improvement District, without regard to the omitted streets and lands.

Section 6 Determination and Notice of Necessity to Issue Bonds. The Board finds that the public convenience requires that Bonds shall be issued to represent the costs and expenses of the Work to be assessed upon the lands within the Night Hawk and Black Panther County Road Improvement District and determines that Bonds shall be issued in the name of the Night Hawk and Black Panther County Road Improvement District payable, however, solely and only out of a special fund collectable from special assessments levied and assessed upon the lots, pieces and parcels of land within the Night Hawk and Black Panther County Road Improvement District subject to assessment therefore, in not to exceed twenty (20) annual principal installments from the assessments of \$25.00 or over remaining unpaid as of the close of the period of time allotted for payment of assessments in cash prior to the delivery date of the bonds.

Pursuant to Arizona Revised Statutes Section 48-946, the annual assessment installment for payments of the principal and interest on the bonds shall be collectable in the manner and by the officers provided by law for the collection and enforcement of general taxes levied by the Night Hawk and Black Panther County Road Improvement District.

The first interest payment on the bonds issued shall be due on the first day of July, 1987, which occurs no earlier than 180 days after the expected date of completion of the Work, and the first principal payment shall be payable to bond holders on the first day of January, 1988. The Bonds shall mature on the first day of January in amounts to be set by the Governing Body prior to their issuance.

Said Bonds shall bear interest at the rate of not to exceed twelve percent (12%) per annum, payable on the first day of January and July of each year. Said bonds and the interest thereon shall be payable as provided in Arizona Revised Statutes Section 48-935, and the assessment installments and interest will be collected as provided in Arizona Revised Statutes Section 48-946.

Section 7 Bond Anticipation Notes. The Board reserves the right to issue bond anticipation notes pursuant to Arizona Revised Statutes Section 48-962. The Board also reserves the right to retain any Bonds which may be issued and to sell the same for cash to pay the contractor the amounts due it in cash.

Section 8 Statutory Authority. The Work and all proceedings pertaining thereto shall be performed under the provisions of Sections 48-901 through 48-965, inclusive, Arizona Revised Statutes, and all amendments thereto.

Section 9 Protests and Objections to the Extent of the District. Owners of property within the Night Hawk and Black Panther County Road Improvement District may file with the Clerk of the Board of Supervisors, Navajo County, Navajo County Governmental Complex, So. Highway 77, Holbrook, AZ 86025, and ex officio Clerk of this Board, written protests against the improvements or the extent of the Night Hawk and Black Panther County Road Improvement District to be assessed to pay the expenses of the improvements, within fifteen (15) days after the last publication of this resolution, or within fifteen (15) days after the completion of the posting of the notices of proposed improvement, whichever date is later. Notice is hereby given that all protests made will

be heard by the Board at the time fixed herein, and protesting owners shall appear at said time and show cause why their protests should not be overruled. Tuesday the 10th day of June, 1986, at the hour of 10:30 o'clock a. m., Board of Supervisors Chambers, Navajo County Governmental Complex, Holbrook, Arizona is fixed as the time and place when and where the Board will consider all protests against the improvements, the grades at which the work will be done and the estimated costs of the improvements.

Owners and all other persons directly interested in the assessment, who have any objection to the extent of the Night Hawk and Black Panther County Road Improvement District or the improvement, or to any of the previous proceedings connected therewith, may, prior to the time fixed above in this resolution, file a written notice briefly specifying the grounds of their objections.

All protests made as herein provided shall be in writing, shall clearly state the grounds of protest, shall describe the property as to which the protest relates, shall state its frontage in feet and decimals thereof, shall be signed by the owner and shall have attached an affidavit of an owner that each signature was affixed in his presence and is the signer's genuine signature.

Section 10 Delegation of Authority. The District Engineer is hereby authorized to fill in any blanks and to make any minor corrections necessary to complete the Plans and Specifications and the Contract Documents. All of said work will be done under the direction of the District Engineer, such being a suitable person appointed therefore by the Superintendent of Streets and this Board, and shall see that the contract is fulfilled.

Section 11 Retained Right to Reduce or Alter Scope of Work. If, because of pending or threatened litigation concerning any one or more parcels subject to assessment, the District and the winning bidder receive a written opinion of Bond Counsel stating that bonds cannot be issued against such parcel or parcels, the Night Hawk and Black Panther County Road Improvement District may then cause the construction contract to be modified to exclude from the applicable contract some or all of the Work which will benefit the parcel or parcels in question. The filing of a certificate and request that no bonds be issued against any parcel pursuant to Section 48-935, Arizona Revised Statutes, may be deemed to be threatened litigation. To the extent that plans, detailed drawings and specifications show that any of the improvements described therein may be done according to any of several alternative Plans and Specifications, or methods, classes or kinds of construction or classes or kinds of material, the Board reserves the right to hereafter determine according to which the work shall be done.

Section 12 Miscellaneous. The Work shall be done and all proceedings therefore shall be taken, the Superintendent of Streets shall cause to be posted Notices of Proposed Improvement at not more than 300 feet apart along the lines of the proposed improvements within the Night Hawk and Black Panther County Road Improvement District, which notice shall be headed "Notice of Proposed Improvement," such heading to be in letters at least 1 inch in height; the Clerk shall certify to the passage of this Resolution of Intention, and shall cause the same in its entirety to be published for two (2) consecutive weekly publications in the Pinetop Lakeside News; a copy of said notice being attached herein as Exhibit D, and it shall also be published two (2) times in the Pinetop lakeside News.

Said Notice of Proposed Improvement shall state the fact of passage of this resolution and briefly describe the proposed improvements, that the proceedings are had pursuant to Chapter 6, Title 48, Arizona Revised Statutes, Article 1, and state the time and

place of hearing all protests. On or before the first date of publication of the Resolution of Intention the Clerk shall cause copies of said notice to be mailed to the owners of real property within the district, as their names and addresses appear on the last equalized county tax roll or as known to the Clerk.

All of the locations where streets will be improved are either open to public use or have been dedicated thereto by a plat of record or otherwise, or separate easements, leases or permits have been obtained therefore, or shall be acquired and shall be deemed to be public and subject to improvement and maintenance by the Board.

The descriptions of the public improvements and the terms describing the proposed work used in this Resolution are general in nature. All items of work and improvements do not necessarily extend for the full length of the description thereof or may extend beyond said description. The plans and detailed drawings for the work and improvements shall be controlling as to the correct and detailed description thereof.

There is excepted from the work herein described any of such work already done to line and grade and marked, or shown not to be done on the plans, profiles and specifications.

The grades and elevations shown in the Plans and Specifications are hereby adopted and established as the official grade for said work. All such grades and elevations are in feet and decimals thereof with reference to the datum plane established by the United States Geological Survey.

Notice is hereby given of the fact that in many cases said work and improvements will bring the finished work to a grade different from that formerly existing and that to said extent said grades are hereby changed and that said work will be done to said changed grades.

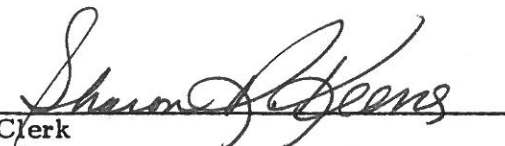
The District Engineer shall make diagrams of the property contained within the Night Hawk and Black Panther County Road Improvement District; the diagrams shall show each separate lot, numbered consecutively, the area in square feet of each lot, and the location of the lot in relation to the work proposed to be done. This Resolution shall be filed with the Clerk and made a part of the records of the Governing Body.

ADOPTED THIS 5th day of May, 1986.

BOARD OF DIRECTORS
NIGHT HAWK AND BLACK PANTHER
COUNTY ROAD IMPROVEMENT DISTRICT


Chairman

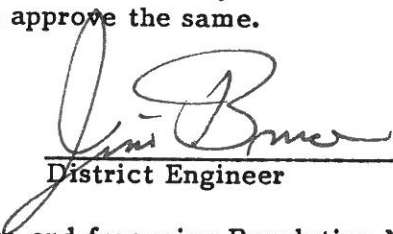
ATTEST:


Clerk

APPROVED AS TO FORM:

John G. Shipe

I hereby certify that I have read the description set out under the definition "District" and approve the same. I further certify that I have read the description set out under the definition "Work" and approve the same.


District Engineer

I hereby certify that the above and foregoing Resolution No. 38-86 was fully passed by the Board of Supervisors of Navajo County, Holbrook, Arizona, at a regular meeting held on May 5, 1986, and that a quorum was present thereat and that the vote thereon was 3 ayes and 0 nays. 0 were no vote and 0 were absent.


Clerk

DM2/ResInNHBP
05/01/86

EXHIBIT A

LEGAL DESCRIPTION

NIGHT HAWK AND BLACK PANTHER COUNTY IMPROVEMENT DISTRICT

Beginning at the Southwest corner of Lot 80, Pinetop Lakes Country Club Unit Two, Section 10, T.8 N., R.23 E., as recorded in Book II of maps Page 18, records of the Navajo County Recorder;

thence N 04°57'53" E 130.00 feet;

thence N 35°02'07" W 59.85 feet;

thence N 04°57'53" E 20.00 feet;

thence S 85°02'07" E 10.00 feet;

thence N 04°57'53" E 210.13 feet;

thence N 03°29'00" W 535.07 feet;

thence N 86°13'00" E 150.00 feet to the Northeast corner of Lot 72;

thence southeasterly to the Northwest corner of Tract E of Quality Hills Amended Plat Subdivision as recorded in Book 13 of maps Pages 38 and 39;

thence S 89°56'04" E 345.00 feet;

thence S 00°00'00" E 375.19 feet;

thence S 69°15'30" W 186.44 feet to the centerline of Crown Dancer Drive;

thence southeasterly along the centerline of Crown Dancer Drive to the intersection of a line projected radially N 29°16'15" W from the point common to this subdivision and Lots 114 and 115 of Pinetop Lakes Country Club Unit Three as recorded in Book 11 of maps Page 25;

thence S 29°16'15" E 63.87 feet to the West corner of Lot 115, Pinetop Lakes Country Club Unit Three;

thence N 45°32'53" E 325.46 feet;

thence S 31°50'17" E 320.00 feet;

thence N 72°09'12" E 480.00 feet;

thence N 44°56'24" E 572.57 feet;

thence S 35°37'48" E 220.98 feet to the North corner of Lot 258, Pinetop Lakes Country Club Unit Four, Book 11 of maps Page 26;

thence S 33°06'00" E 215.00 feet;

thence southwesterly along the arc of a circle concave to the North having a radius of 150.00 feet and a central angle of 174°11'54" a distance of 456.05 feet;

thence S 51°06'35" W 130.00 feet to the South corner of Lot 268 Pinetop Lakes Country Club Unit Four;

thence southwesterly to the East corner of Lot 270 Pinetop Lakes Country Club Unit Four;

thence S 48°54'00" W 130.00 feet;

thence Easterly along the arc of a circle concave to the North having a radius of 460.00 feet to the Northeast corner of Lot 298 PLCC Unit Four;

thence S 04°36'00" E 130.00 feet to the Southeast corner of Lot 298 PLCC Unit Four;

thence Southwesterly to the Northeast corner of Lot 313;

thence S 00°23'00" W 130.00 feet;

thence Northwesterly along the arc of a circle concave to the North with a radius of 770.00 feet to the Northeast corner of Lot 367 PLCC Unit Four;

thence S 48°36'35" W 310.00 feet;

thence N 38°53'25" W 357.12 feet;

thence S 41°51'35" W 146.99 feet to the North Right-of-Way line of Branding Iron Loop;

thence Westerly along the North Right-of-Way line of Branding Iron Loop to the Southwest corner of Lot 80, Pinetop Lakes Country Club Unit Two, the Point of Beginning.

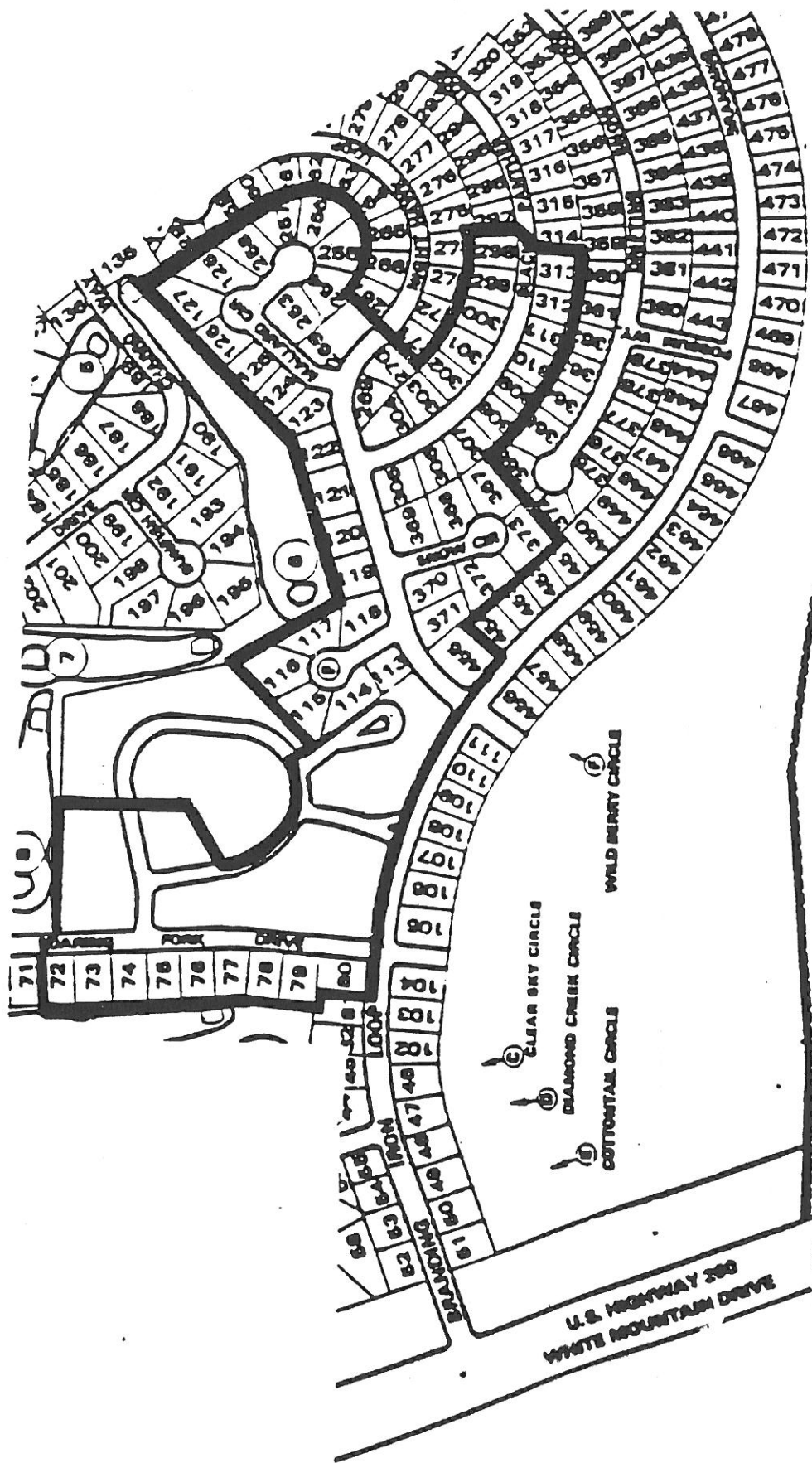


EXHIBIT B